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No. 86-

IN THE SUPREME COURT

OF THE

UNITED STATES

October Term, 1986

RODNEY F. STICH

Appellant

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SOLANO, COURT OF APPEAL, STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT; EMMA W. STICH,

Appellees.

On Appeal from the Court of Appeal of the State of California

JURISDICTIONAL STATEMENT

Rodney F. Stich
Post Office Box 11455
Reno, Nevada 89510
Telephone: (702) 826-1185
Appellant in pro se

165 pp

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QUESTIONS PRESENTED.

1. Is the respondent court depriving appellant of due process when it issues a bench warrant for petitioner's arrest:

(a) When he is in a protected special appearance status.

(b) When the court lacks personal jurisdiction in a divorce action on the basis of the special appearance, and the prior termination of a marriage, as established by a 1966 final divorce judgment and the registration and confirmation of such foreign judgment in California courts.

(c) When the court lacks authority and subject matter jurisdiction under the California Family Law Act.

(d) When all trial court proceedings have been halted by a notice of appeal relevant to the specific attorney fee order on which the bench warrant was predicated, and by notices of appeal that halted all trial court actions relevant

to the collateral attack upon the prior divorce judgments.

(e) When appellant's appearance by legal counsel, as provided by California law, was refused recognition.

(f) When appellant's physical inability to appear, due to his appearance in federal court, was refused recognition and a bench warrant subsequently issued for his nonappearance.

2. Does the interpretations and applications of state law complained of act to interfere with appellant's right to:

(a) Travel freely.

(b) To obtain a divorce under due process law available to others, and to have it recognized by all state courts.

(c) To the protection of a protected special appearance.

(d) To representation and appearance by legal counsel, especially when he is

physically unable to appear because of a previously calendared federal court appearance.

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EXHIBITS:

Exhibit "A": Arrest warrant.

Exhibit "B": Petition for Review to California Supreme Court.

Exhibit "C": Decision of Court Denying Petition for Review.

Exhibit "D": Notice of Appeal to U.S. Supreme Court.

OPINIONS BELOW

Seeking relief from a bench warrant for appellant's arrest issued by the California trial court, appellant filed a petition for a Writ of Mandate/Prohibition with the California Court of Appeal on September 23, 1986. The petition was denied a hearing by order dated September 25, 1986, without allowing motion for opposition response. Next, appellant petitioned the California Supreme Court for a petition for review on September 25, 1986. The petition was denied a hearing by notice signed by Chief Justice Rose Bird on October 15, 1986.(Appendix "A.") Appellant then filed a Notice of Appeal to the United States Supreme Court in the California Supreme Court on October 23, 1986. (Appendix "D.")

JURISDICTIONAL STATEMENT

Pursuant to Rules 13(2) and 15 of the Rules of the Supreme Court of the United

States, appellant Rodney F. Stich files this jurisdictional statement. The basis for its filing is that the Supreme Court of the United States has jurisdiction to review the judgment entered by the Superior Court, County of Solano, State of California, as upheld by the California Court of Appeal and the California Supreme Court.

It is contended that the Supreme Court of the United States should exercise jurisdiction in this case as it involves unconstitutional interpretations and applications of state law in that it voids, violates, and unconstitutional interprets major and fundamental constitutional rights:

(a) The right to privacy.

(b) Prevent divorced persons from exercising their right to interstate travel.

(c) The right to be protected from imprisonment by violation of due process.

This action arises directly from a bench warrant for appellant's arrest based on unconstitutional interpretations and applications of state law. These include but are not limited to the following: a collateral attack upon a 1966 divorce judgment, refusal to recognize a divorce judgment registered/confirmed in six jurisdictions in various parts of the United States, and refusal to recognize the judgment on a holding that residence is not a recognized base for personal jurisdiction--except when exercised by California courts.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Constitutional provisions involved in this case include, inter alia:

a. The Fourteenth Amendment to the Constitution of the United States:

> ... nor shall any state deprive any person of life, liberty, or property, without due process of law ...

b. The right to interstate travel as guaranteed by the Commerce Clause, the Privileges and Immunities Clause of Article IV, Section 2; the Privileges and Immunities Clause of the Fourteenth Amendment; and the Due Process and Equal Protection Clause of the Fourteenth Amendment.

THE FEDERAL QUESTIONS ARE SUBSTANTIAL

The bench warrant for appellant's arrest was rendered following the violations of fundamental constitutional rights which include the following:

a. California courts can void personal and property rights adjudicated 20 years earlier, and property rights acquired during the subsequent 20 years of divorced status, on the holding that California courts will not recognize the jurisdiction of a court based on residence, exercised over residents of such foreign court jurisdiction. With this legally absurd holding, all divorced

persons can arbitrarily be stripped of personal and property rights by California courts when the constitutional right to travel is exercised.

b. Exercising procedural due process remedies specifically provided by California law are frivolous acts that must be punished by California courts.

c. A party is in contempt of court and can be ordered to jail without a hearing where such party appears by counsel and not in persons.

d. A bench warrant can be issued for appellant's arrest, although the order for which he was allegedly in contempt was on appeal.

e. Appellant is in protected special appearance status and thus the Court does not have personal jurisdiction.

f. The California court lacks subject matter jurisdiction in that the Family Law Act and the Family Rules of Court provide no authority for collateral

attacks to relitigate the personal jurisdiction of a prior court and prohibit denying recognition to the prior judgment.

In addition, the arrest warrant was issued under highly irregular conditions. Appellant was ordered arrested, although:

1. The California court knew that appellant was not required to personally appear when he was represented by legal counsel.

2. The respondent court judge knew that petitioner could not physically be present, in that petitioner was appearing at that same time and date in a federal court proceeding in which that same California respondent court judge was a defendant.

3. The bench warrant for petitioner's arrest was issued when all trial court proceedings had been halted by the filing of notices of appeal, that under California Code of Civil Procedure

Section 916 halted all state court proceedings.

4. The bench warrant was issued when all state court proceedings were halted, by the filing of a petition for removal with the United States District Court, Eastern District of California, under the provisions of Title 28 United States Code, Sections 1441, 1443, 1446 and 1447. (CV-S-86-715-MLS and Ninth Circuit Court of Appeal No. 86-2261.)

7. The original order for payment of attorney fees, for which appellant was allegedly in contempt, was under appeal, and therefore appellant could not be in contempt for not paying that order. (California Code of Civil Procedure Section 916.)

8. Appellant had attempted to place an undertaking to stay the order for payment of attorney fees during the appeal and the undertaking was refused by the respondent court.

STATEMENT OF THE CASE

A bench warrant for appellant's arrest was rendered by the California trial court on May 9, 1986 when appellant, a Nevada resident, appeared at a California hearing via legal counsel. The hearing was on an order to show cause for alleged contempt in not paying the attorney fees authorized by the published decision, In re Marriage of Stich (1985) 167 Cal.App.3d 226.

The underlying action is a collateral attack upon a 1966 divorce judgment, on the holding that California courts would not recognize a divorce judgment rendered by a court foreign to California if jurisdiction was based upon residence, rather than a determination that the 1965-1966 residence of five months constituted the subjective mental thought processes of domicile.

Appellant had objected to the California court's personal jurisdiction

over him, as specifically provided by California Rule of Court 1230(a)(2) and California Code of Civil Procedure Section 418.10(a)(1). For exercising this procedural due process remedy, instead of submitting to the California court's jurisdiction and violation of clear California statutory and conforming decisional law, as well as controlling federal question rights, appellant was held to be guilty of a frivolous act. The published decision held that appellant should not have exercised his specific procedural due process remedies, and that he should have immediately submitted to the California trial court's personal jurisdiction, without objection to its absence of personal and subject matter jurisdiction, and violation of numerous substantive and procedural due process remedies. Appellant was then ordered to pay financial sanctions, and the payment of attorney fees to be determined by the

California trial court.

The order for sanctions, the authorization for the trial court to order plaintiff to pay attorney fees, and the order to pay such fees, were all rendered while plaintiff was in a protected special appearance. This protected appearance commenced with the February 1983 filing of the motion to quash, continued through to the January 13, 1986 order refusing to dismiss the motion to quash, continues through the appellate process, until a final decision is rendered, which has not yet occurred. This protection is provided by California Rule of Court 1232 and California Civil Code Section 4356.

Section 4356 provides that:

> "during the time a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending, the respondent may appear in opposition to an order made during the pendency of proceedings under this part and the appearance shall not be deemed a general appearance by the respondent.

(b) As used in this section, a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending from the time notice of motion is served and filed until the time within which to petition for a writ of mandate has expired or, if a petition is made, until the time final judgment in the mandate proceeding is entered."

Plaintiff filed, and the trial court accepted, the February 1983 motion to quash, under the authority of Family Rule of Court 1230(a)(2) on the basis:

"That there is a prior judgment ... between the same parties for the same cause."

The hearing on the motion to quash was calendared for February 25, 1983, at which under Rule 1230(a)(2) the court would be required to allow appellant to produce evidence of the prior divorce judgment, which in turn under California law is final and conclusive of the rights and obligations of the parties.[1]

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[1] Civil Code Section 4554. Effect of Final Judgment.

Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the

Appellant was denied the right to produce evidence of the 1966 divorce judgment, denied the right to introduce testimony or written evidence relevant to his prior residence, his prior domicile, or any other matter relevant to the challenge to the California court's personal jurisdiction. Instead, the hearing was limited to how much attorney fees, costs, and spousal support, appellant would be ordered to pay to be sued in a collateral attack action and relitigation of the personal jurisdiction of the court two decades earlier, that was clearly prohibited under California and federal law.[2]

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parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

[2] Perrin v. Perrin, (3rd Cir. 1969) 408 F.2d 107; Sherrer v. Sherrer (1948) 334 U.S. 343; Coe v. Coe (1948) 334 U.S. 378.

California law provides that the prior divorce court be conclusively presumed to have acted in the lawful exercise of its jurisdiction.[3] California law further provides that prior divorce judgments, whether foreign state or foreign country, be recognized, prohibits collateral attacks,[4] and specifically limits the Family Law Act to proceedings, as defined

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[3] California Evidence Code Section 666:

> Section 666. Judicial Action Lawful Exercise of Jurisdiction.
>
> Any court of this state or the United States, or any court of general jurisdiction in any other state or nation, or any judge of such a court, acting as such, is presumed to have acted in the lawful exercise of its jurisdiction.

[4] California Civil Code Sections 4554, 5004, 5162, 5164, 5172; California Code of Civil Procedure Sections 1908, 1913, 1915, 1713.1, 1713.3, 1713.5, 1699(b), 1697-1699, 1653(j); California Evidence Code Sections 666, 665, 622, 623; California decisional law, including: Rediker v. Rediker (1950) 35 Cal.2d 796 Spellens v. Spellens (1957) 498 C.2d 210; Scott v. Scott (1958) 51 C.2d 249; Whealton v. Whealton (1967) 67 C.2d 656, 663.

in Family Rule of Court 1201(c), where there is a marriage and absence of a prior divorce judgment.

Authority and subject matter jurisdiction under the Family Law Act is limited to dissolution of marriage, nullity of marriage, and legal separation. Family Rule of Court 1212 specifically prohibits denying recognition to prior divorce judgments on the basis that residence is not a recognized basis for personal jurisdiction; to relitigate the prior judgment, or any other attack.[5]

The published decision held that it was frivolous for appellant to exercise the specific remedy provided under California law when there is a prior

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[5] Rule 1212. Other Causes of Action.

Neither party to the proceeding may assert against the other party or any other person any cause of action or claim for relief other than for the relief provided in these rules or the Family Law Act.

divorce judgment. The decision then ordered plaintiff to pay financial sanctions and approved the awarding of attorney fees to be determined by the California trial court.

Appellant filed a notice of appeal of the order to pay attorney fees when ordered by the California trial court, which halted any proceedings on that specific order, and halted any subsequent hearings holding appellant to be in contempt for his inability to pay such order. Further, appellant had already filed a notice of appeal of the January 13, 1986 decision on the motion to quash, which itself halted any hearing on the subsequent order to pay attorney fees, and the following hearing on the order holding appellant in contempt for his inability to pay such order.

The order of contempt and bench warrant for appellant's arrest was also illegal and unconstitutional in that

appellant was still in a protected special appearance status, a general appearance had not yet been made. This in turn deprived the California court of personal jurisdiction over appellant. Further, the California court lacked subject matter jurisdiction to relitigate the personal jurisdiction of a court two decades earlier; lacked the authority to retroactively rescind appellant's 1966 right to invoke the 1966 court's personal jurisdiction; and lacked the authority to void residence as a basis for personal jurisdiction when exercised by appellant, when it is the universally applied basis for personal jurisdiction under the law and court practice of all 50 United States, all known foreign countries, and under federal law.

An additional violation was that the January 13, 1986 order on the motion to quash had been challenged by a January 21, 1986 notice of intent to file a

motion for a new trial, and the subsequent February 3, 1986 filing of the motion, points and authorities, as provided by California Code of Civil Procedure Sections 656, 657, 658. On October 28, 1986 appellant again requested a decision on the motion for new trial, which again went unanswered. A decision had never been made on that motion, which precluded the finality of that January 13, 1986 decision on the California trial court's personal jurisdiction. To protect appellant's appellate remedies in the event the motion for new trial had been acted upon without appellant's knowledge, appellate also filed an appeal of the January 13, 1986 decision on March 7, 1986.

These are only a small number of the overall violations of appellant's civil and constitutional rights, of which the bench warrant for plaintiff's arrest is only a small part.

These orders were rendered while appellant was in a protected special appearance status, without a general appearance having been made, without personal and without subject matter jurisdiction, and in violation of controlling California and federal law.

ARGUMENT

I. IT IS AN UNCONSTITUTIONAL INTERPRETATION AND APPLICATION OF STATE LAW TO ORDER PETITIONER ARRESTED, UNDER ONE OR MORE OF THE EXISTING CONDITIONS.

The sole basis on which the California court ordered appellant arrested was on the holding that he did not personally appear at an Order to Show Cause hearing for Contempt, and that his appearance by legal counsel was legally improper.

The California Supreme Court held in Morelli v. Superior Court (1968) 262 C.A.2nd 262, 269:

> It has long since been settled that in a proceeding arising out of a civil action charging a person with contempt for failure to obey an order made in that proceeding ... the court has no power to command the alleged contemnor to appear in person.

The Morelli court also held that appearance by the alleged contemnor's attorney is sufficient compliance with the court's order to show cause and the court has no jurisdiction to order the alleged contemnor to appear personally. Morelli, supra, page 268.

The Morelli court cited the California Supreme Court case of Ex parte Gordan, 92 Cal. 478, which held that a person summoned to court to show cause could appear and show cause through his attorney. This would allow the court to hear and determine the issue of contempt with no loss of jurisdiction over the alleged contemnor. This holding has been restated and applied in later cases including: Foley v. Foley, 120 Cal.33, 52 P 122; Bakeman v. Superior Court, 37

Cal.App 785, 1784 P 911, and Silvagni v. Superior Court 157 Cal App. 2d 287, 291-292; 321 P 2d 15.

Plaintiff was denied the protection stated in Morelli, supra, page 270:

> We hold, accordingly, that the court had no power to order the issuance of a bench warrant ..., for the purpose of compelling the attendance of (the alleged contemnor) in court in person in response to the order to show cause, and in doing so it exceeded its jurisdiction.

The California state court judge and opposing counsel knew, before they requested and prepared a bench warrant for petitioner's arrest, that:

a. Petitioner had previously appealed the order to pay attorney fees, which halted all trial court actions, under California Code of Civil Procedure Section 916.

b. Orders for which appellant was allegedly in contempt were orders rendered while petitioner was in protected special appearance status, and thus no personal jurisdiction existed.

c. Orders for which appellant was allegedly in contempt were orders rendered without subject matter jurisdiction. The California Family Law Act limits the authority of the California court to proceedings where there has not been a prior divorce judgment.[6]

II. THE CALIFORNIA STATE COURT JUDGE KNOWINGLY LACKED PERSONAL JURISDICTION OVER PETITIONER WHEN HE ISSUED THE BENCH WARRANT FOR APPELLANT'S ARREST.

The California court knowingly lacked personal jurisdiction over appellant, on the basis of the Motion to Quash, which has not been heard on appeal.

The filing of the motion to quash, based upon the prior divorce judgment, placed petitioner in a protected special appearance status as provided by

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[6] California Family Rule of Court Rules 1201, 1212.

California Rule of Court 1232 and California Civil Code Section 4356. In this status petitioner was protected against any orders of the respondent court, including relitigation of the prior court's personal jurisdiction.

> Section 4356. Special Appearance During Pendency of Motion.
>
> (a) During the time a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending, the respondent may appear in opposition to an order made during the pendency of this part and the appearance shall not be deemed a general appearance by the respondent.
>
> (b) As used in this section, a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending from the time notice of motion is served and filed until the time within which to petition for a writ of mandate has expired, ...

III. CALIFORNIA LAW PROTECTS APPELLANT AGAINST COLLATERAL ATTACKS UPON PREVIOUSLY ADJUDICATED PERSONAL AND PROPERTY RIGHTS.

The relitigation of the personal jurisdiction of the 1966 divorce court, by refusing to recognize residence as a

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basis for personal jurisdiction, is prohibited under law.

California Evidence Code 666 states:

> Section 666. Judicial Action Lawful Exercise of Jurisdiction.
>
> [A]ny court of this state ... or ... any other nation ... is presumed to have acted in the lawful exercise of its jurisdiction ... when the act ... is under collateral attack.

California Code of Civil Procedure Section 1713.5 also provides additional protection against either collateral attack upon the jurisdiction of the prior foreign judgment, or the retroactive substitution and forcing of new bases for personal jurisdiction by the respondent court of domicile, upon other courts, and upon residents of such foreign courts:

> Section 1713.5. Personal Jurisdiction of Defendant--Bases.
>
> (a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:
>
> ...
>
> (2) The defendant voluntarily appeared in the proceedings, ...
> [which she did by signing notarized divorce documents, submitting them to

her legal counsel, submitting to the personal jurisdiction of the 1966 divorce court, and her appearance by legal counsel, which also appeared in the judgment recitals.]

(3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved; [which was implied by her actions in voluntarily signing the notarized divorce documents, not appealing, accepting the benefits of the divorce proceedings and divorce judgment, and not raising any objections for the next 17 years.]

(4)(b) The courts of this state may recognize other bases of jurisdiction.

Appellant's former wife voluntarily submitted to the 1966 court's jurisdiction as stated in the divorce judgment recitals. California Code of Civil Procedure Section 430.80 provides that if an objection is not made to personal jurisdiction, it is waived:

Section 430.80. Objections Waived by Failure to Object.

(a) If the party against whom a complaint or cross-complaint has been field fails to object to the pleading, either by demurrer or answer, that party is deemed to have waived the objection ...

The refusal to recognize residence as a base for personal jurisdiction was voided decades ago in landmark California, federal, and New York state decisions. In the California Supreme Court decision of Scott v. Scott (1958) 51 Cal.2d 249, Justice Traynor held:

> "There is no reason to read any requirement of domicile or bona fide residence into the statute [California Code of Civil Procedure Section 1915.]

In Rediker v. Rediker (1950) 35 Cal.2d 796, the court held:

> [I]t must be presumed that the foreign court had jurisdiction and that its recital thereof is true ... If a court has jurisdiction of an action, a judgment entered therein is not subject to collateral attack on a showing of error in the exercise of that jurisdiction ... The validity of a divorce decree cannot be contested by a party who ... aided another to procure the decree ...

In Spellens v. Spellens (957) 498 C.2d 210, the court held

> [T]he principle of estoppel is applicable [when] the divorce decree was alleged to be invalid for lack of jurisdiction ...

In Scott v. Scott (1958) 51 C.2d 249, the court held:

Section 1915 of the Code of Civil Procedure provides: "A final judgment of any other tribunal of a foreign country having jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as in the country where rendered, and also the same effect as final judgments rendered in this state.

The District Courts of Appeal of this state have denied recognition to divorce decrees of a foreign country when domicile was lacking, even though the foreign country did not require domicile as a basis for divorce judgment. ... These cases should be disapproved insofar as they make domicile a sine qua non of recognition.

[A] decree of divorce that is valid according to the laws of the foreign country should be recognized here. (See Ruiz, The Effect of Section 1915 of the Code of Civil Procedure on Migratory Divorces Procured in Foreign Countries, 13 So.Cal.L.Rev. 294; Ehrenzweig, Survey of California Law 1950-1951, Conflicts of Laws, 141-142.0

There is no reason to read any requirement of domicile or bona fide residence into the statute. The status of persons as married or not married should be ascertainable with reasonable certainty. The valid judgments of courts of other countries should therefore be respected....

In Whealton v. Whealton (1967) 67 C.2d 656, 663, Justice Traynor again repeated

the holdings in Scott v. Scott, supra:

> When both parties to a divorce action are before the court ... it is questionable whether domicile is an indispensable prerequisite for jurisdiction. If the moving party's mobility is greatly restricted, for instance, access to a domiciliary forum may be practically unavailable ... Moreover, when parties secure a divorce without the prerequisite domicile in the forum state, it may not be attacked at a later date by either of them ... Hence, the prerequisite of domicile may be easily avoided at the trial by parties wishing to invoke the jurisdiction of a court, with little fear in most instances that the judgment will be any less effective than if a valid domicile in fact existed. [Emphasis added.])

Federal law provides protection against raising the domicile invalidating argument and requires the application of the doctrines of res judicata to either bilateral or ex parte divorce proceedings, including, inter alia:

Sherrer v. Sherrer (1948) 334 US 343, the Court held:

> ...the vital rights and interests involved in divorce litigation may be held in suspense pending the scrutiny by courts of sister States of jurisdictional fact made by a competent court in proceedings ... in

> which the defendant has participated ... it is a matter of greater rather than lesser importance that there should be a place to end such litigation.

In Coe v. Coe (1948) 334 US 378 the Court reached the same conclusion. Similar holdings are found in Vanderbilt v. Vanderbilt (1957) 354 US 416.

The landmark and frequently cited decision of Perrin v. Perrin, 408 F.2d 107 (3rd Cir. 1969), addressed the tens of thousands of divorce judgments rendered by the same court jurisdiction in which appellant's marriage was terminated. The decision upheld the one day's residence requirement of that divorce court. Implicit in that decision was that domicile was not a required basis for personal jurisdiction. Petitioner's five month's residence during 1965-1966 greatly exceeded the one day residence approved in Perrin:

> "Although he had no intention of making his domicile there, he did what the domestic law of the place required he do to establish a 'residence' of a

> kind which was set up as a statutory prerequisite to institute an action for divorce ... But domicile is not intrinsically an indispensable prerequisite to jurisdiction ... our public interest is not affected differently by a formality of one day than by a formality of six weeks. Nevada gets no closer to the real public concern with the marriage than Chihuahua ..."
>
> "A balanced public policy now requires that recognition of the bilateral Mexican divorce be given rather than withheld and such recognition as a matter of comity offends no public policy ..."

The enlightened courts of New York State had rendered identical decisions and approved the divorce judgments obtained by thousands of its own residents in the same court jurisdiction that the California respondent court refuses to recognize. Among the often cited decisions was Rosenstiel v. Rosenstiel (1965) 262 N.Y.S. 86, repeated almost word for word in Perrin, and followed by Greschler v. Greschler (1980) 434 N.Y.S. 2d 194; In the Matter of Rhinelander (1973) 290 N.Y. 31. Petitioner resided in New York State

after obtaining the 1966 divorce judgment. Had he remained in that jurisdiction he would have been recognized as a divorced person.

Not withstanding the matter before this Court, California courts have previously approved the two-day Haiti residence for obtaining a divorce by a female California resident. Kulko v. California Superior Court (1977) 19 C.3d 514; 436 US 84.

IV. CONSTITUTIONAL APPLICATION OF CALIFORNIA AND FEDERAL LAWS PROTECT PREVIOUSLY DIVORCED PERSONS.

Collateral attacks upon the jurisdiction of a court are prohibited two decades after submitting to the court's jurisdiction.

a. Effect of Prior Divorce Judgment.

The effect of a prior divorce judgment is conclusive of the rights and obligations of the parties under California law.

Section 4554. Effect of Final Judgment.

Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

This protection is extended to foreign state and foreign country judgments by California Civil Code Section 5164, and by California Code of Civil Procedure Sections 1713.3 and 1915.

Under California Code of Civil Procedure Section 1699(a) the registration of the 1966 divorce judgment required that the judgment be final and conclusive as California judgments under Civil Code Section 4554):

Section 1699, Enforcement of Foreign Support Order ...

(a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state.

(b) The obligor has 20 days after the

mailing or other service of notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition the registered order is confirmed.

The 1966 divorce judgment is confirmed as a California judgment.

The same conclusiveness to be given to foreign state and foreign country judgments is shown by other California statutes, including, inter alia:

Civil Code Section 5164. Filing of Custody Decree of Another State with Superior Court Clerk.

(1) A certified copy of a custody decree of any other state may be filed in the office of the clerk of any superior court of this state. The clerk shall treat the decree in the same manner as a custody decree of the superior court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

b. Recognition of Foreign Judgments.

Reflecting California omnibus international comity judgment recognition requirements under statutory law and public policy, the protection of section 5164 is extended to foreign country

judgments by California Civil Code

Section 5172:

> Section 5172. International Applicability of Policies.
>
> The general policies of this title extend to the international area. The provisions of this title relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutional similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

The international judgment recognition requirements is also reflected by California Code of Civil Procedure Section 1653(j), Civil Code Section 5172, Code of Civil Procedure 1914, 1915, and others. Appellant's constitutional right to travel, and his right to equal protection of the law, would further require recognition of rights established by prior courts in whose jurisdiction appellant resided.

c. Conclusiveness of Judgments.

The conclusiveness of the rights and

obligation of the parties is shown in the 1966 divorce judgment, and the subsequently registered and finalized judgments in states throughout the United States:

> The parties hereto stated their express agreement to the judgment rendered in this case declaring the legal dissolution of the marriage ... said judgment is hereby declared final and, in consequence, unappealable, in accordance with provisions of Article 395 subdivision I and 396 of the Code of Civil Procedure.

Civil Code Section 4554 is similar:

> Section 4554. Effect of Final Judgment.
>
> Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

Augmenting the protection of Civil Code Section 4554:

> Section 1908. Conclusiveness and Effect of Judgment.
>
> (a) The effect of a judgment or final order in an action or special proceeding before a court or judge of this state [is] ...

conclusive between the parties.....

[extended to foreign country judgments by Civil Code Sections 5172, Code of Civil Procedure Sections 1653(j), 1713.3.]

California Civil Code section 1915 required that foreign country judgments be recognized as local California judgments. This statute was in effect when the 1966 divorce judgment was rendered and for nine years thereafter, giving finality of judgment effect personal and property rights and obligation of the parties.

Section 1915:

A final judgment of any tribunal of a foreign country having jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as final judgments rendered in this state.

d. Quasi Estoppel Doctrine.

Petitioner is protected by application of the quasi estoppel doctrine. Appellant's former wife has declared herself for the past 21 years to be divorced in real estate documents filed

in the official records of the State of Texas; in representations made to persons buying her real properties; to Texas title insurance companies who insured title to properties on the basis of her divorced status; to California title insurance companies who relied upon her representations and failure to state a contrary claim during the 17 years after the 1966 divorce judgment was rendered; and to petitioner, who relied upon her representations of being divorced, and did not protect his property interests.

> Section 623. Misleading Statement or Conduct.
>
> Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it.

Quasi estoppel is addressed in California decisional law. In In re Shank's Estate (1957) 154 Cal.App.2d 888:

> [O]ur courts have recognized another species of estoppel, called 'quasi-

estoppel,' which is based upon the principle that one cannot blow hot and cold ....

California Evidence Code Section 665 provides additional protection:

Section 665. Ordinary Consequences of Voluntary Act Intended.

A person is presumed to intend the ordinary consequences of his voluntary act.

Appellant's former wife submitted to the 1966 divorce court's personal jurisdiction, and she declared herself, and gave constructive notice in the State of Texas, for 21 years, that she was divorced from plaintiff, including the years after her legal counsel filed the California "divorce" action.

California Evidence Code 666 states:

Section 666. Judicial Action Lawful Exercise of Jurisdiction.

[A]ny court of this state ... or ... any other nation ... is presumed to have acted in the lawful exercise of its jurisdiction ... when the act ... is under collateral attack.

If the 1966 divorce court lacked personal jurisdiction, the judgment must be recognized under Civil Procedure

section 1713.5:

> Section 1713.5. Personal Jurisdiction of Defendant--Bases.
>
> (a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if
>
> (2) The defendant voluntarily appeared in the proceedings ....
>
> (3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

Three years after her legal counsel filed the collateral attack action in the California court, appellant's former wife continued to declare herself divorced in her resident State of Texas. In 1985 she filed declarations with the Social Security Administration of the United States government declaring that she was divorced from appellant.

V. IT IS BEYOND THE AUTHORITY OF A CALIFORNIA STATE COURT JUDGE TO IMPOSE UNCONSTITUTIONAL INTERPRETATIONS OF ITS LAW WHICH ARE UNAPPLICABLE TO ITS

PROCEEDINGS, UPON FOREIGN COURTS.

California courts have no authority to deny to residents of jurisdictions foreign to California the due process right to invoke court jurisdiction, and to obtain a divorce, especially when both parties submit to the jurisdiction of that foreign court; and neither party is a resident of the State of California.

There is no authority in the Family Law Act, or California Family Law Rules of Court, or any other statute or modern decisional law, granting California state court judges the authority to void legally acquired personal and property rights and, in the process, order the objecting party jailed.

VI. THE FULL FAITH AND CREDIT CLAUSE OF THE UNITED STATES CONSTITUTION REQUIRES RECOGNITION OF THE REGISTRATION AND CONFIRMATION OF THE 1966 DIVORCE JUDGMENT IN CALIFORNIA COURTS.

The registration and confirmation of the 1966 divorce judgment in the Superior Court, County of Contra Costa, State of California, and the judicial registration in the States of Nevada, Colorado, Oklahoma, and Texas, invoked additional protections of the Full Faith and Credit Clause of the United States Constitution, under Article IV, Section 1.

> Article IV.
>
> Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.
>
> California Civil Code Section 5004. Full Faith and Credit Requirement.
>
> The application of this title ... requirement of the Constitution of the United States that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

VII. THE BENCH WARRANT FOR APPELLANT'S INCARCERATION IS A VOID ORDER IN THAT IT WAS RENDERED WITHOUT PERSONAL JURISDICTION, WITHOUT SUBJECT MATTER JURISDICTION, AND DURING THE PENDENCY OF AN APPEAL.

The California courts were without jurisdiction over appellant to render any order under the California Family Act in that the statutory requirement of a marriage and the absence of a prior divorce judgment does not exist. The California Family Law Act specifically limits the authority of the California court, and they are further limited by the prohibitory language of California Family Rules of Court. Specifically, Rule 1212, which prohibits the raising of any other cause of action or claim for relief other than that specified by the Act and the Rules of Court, which is limited further by California Rule of Court 1201(c)--all requiring an existing marriage.

REASONS FOR GRANTING PETITION

A hearing before the United States Supreme Court is necessary to secure uniformity of decision as to:

a. Requirement for personal appearance

by a party before a California court on an Order to Show Cause for Contempt, when that party appears via legal counsel, and when that party is physically unable to appear.

b. Requirement for personal jurisdiction before orders can be rendered arresting a party in an action collaterally attacking a prior divorce judgment.

c. Requirement for subject matter jurisdiction before orders can be rendered taking liberties, and major personal and property rights.

d. A removal to federal court under Title 28 United States Code Sections 1441, 1443, 1446 and 1447 should halt all state court proceedings, and should not permit California courts to continue subjecting appellant to orders and taking of his liberties.

CONCLUSION

It is clear that this Court must act

to correct the unconstitutional holdings of the California court. If these holdings are extended logically it will become incumbent upon a United States citizen seeking a divorce to obtain a new divorce in each jurisdiction of residence, relitigating personal and property rights on the date of each subsequent divorce action.

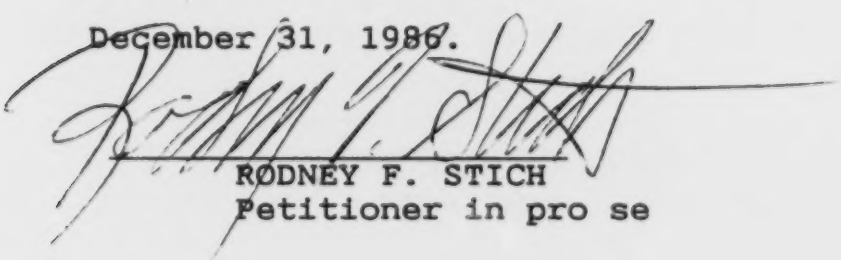
The California courts have, by their actions, made special appearance a discretionary matter, have imposed on foreign jurisdictions a subjective California standard that is not required of California residents, and imposes the unconstitutional restrictive provisions of long-term domicile intent to obtain a divorce. The California trial court has refused to recognize the right to appeal, in that the halting of all trial court proceedings are totally disregarded. Further, the removal to federal court which halts all state court proceedings

has likewise been violated. Further, the courts have forced a remarriage of parties where the one party desire to be married and divorced so that she may benefit financially from both marital status simultaneously.

Overall, these are a small part of the many violations of appellant's civil and constitutional rights, reflecting a determination to totally deprive appellant of his due process and equal protection of the law.

WHEREFORE, appellant requests that this court grants a hearing and renders the appropriate decision.

December 31, 1986.



RODNEY F. STICH
Petitioner in pro se

VERIFICATION

I, Rodney F. Stich, declare:

I am the petitioner in the foregoing Petition. The contents are true to the best of my knowledge. It is filed on the basis of major violations and unconstitutional interpretations of state, federal and constitutional law, actions without personal jurisdiction, without the statutory requirements for subject matter jurisdiction, and on the basis of bad faith misconduct by the respondent court.

Executed on December 31, 1986.

I declare under penalty of perjury that the foregoing is true and correct.

_____

RODNEY F. STICH
Appellant in pro per

PROOF OF SERVICE BY MAIL

I declare that I am a resident of the County of Washoe, State of Nevada. I am over the age of eighteen years, and not a party to the action described herein. My address is

On January 3, 1987, I served the attached Jurisdictional Statement on the below parties in the above action, by placing a true copy in a sealed envelope with sufficient postage prepaid, in the United States mail at Reno, Nevada, addressed as follows:

Clerk, Superior Court, County of Solano, Hall of Justice Building, Fairfield, California 94533

Friedman, Sloan and Ross, Suite 400, 407 Sansome Street, San Francisco, California 94111.

Clerk, California Supreme Court 350 McAllister Street, San Francisco, Calif. 94101

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on January 3, 1987.

X_____
Printed Name

x_____
Signature

No. 86-

IN THE SUPREME COURT

OF THE

UNITED STATES

October Term, 1986

RODNEY F. STICH

Appellant

vs.

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SOLANO, COURT OF APPEAL, STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT; EMMA W. STICH,

Appellees.

On Appeal from the Court of Appeal of the State of California

APPENDIX

Rodney F. Stich
Post Office Box 11455
Reno, Nevada 89510
Telephone: (702) 826-1185
Appellant in pro se

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SOLANO

Fairfield, Hall of Justice
600 Union Avenue
Fairfield, Ca. 94533

In re: Marriage of)	
)	No. 83472
EMMA W. STICH,)	
)	BENCH WARRANT
Petitioner,)	(Civil)
)	
and)	
RODNEY STICH,)	
)	
Respondent.)	
)	

The People of the State of California to any peace officer of this State:

At a hearing on Order to Show Cause before this Court on May 9, 1986 (having been continued at the request of counsel for respondent Rodney Stich, from a previous hearing on April 25, 1986, held pursuant to due and proper notice), at which respondent Rodney Stich was

(Appendix "A")

represented by counsel, respondent Rodney Stich was found guilty of contempt for the disobedience of the lawful orders of this Court made October 31, 1985, and December 5, 1985, to pay to petitioner Emma W. Stich the sums of $1,000 and $9,810 as sanctions and attorney's fees, respectively.

You are therefore ordered forthwith to arrest respondent Rodney F. stich and bring him before Judge William Jensen, Department 2 of this Court, so that respondent Stich can either demonstrate that he has purged his contempt or, if he has not, be sentenced pursuant to Cal. Code of Civ. Proc. § 1218 or § 1219, as the Court may order.

Arrest under this bench warrant may be made only during daylight hours.

Bail is fixed in the sum of $5,000 (bail bond or personal checks

acceptable).

DATED: May ____, 1986

_____
JUDGE OF THE SUPERIOR COURT

Description of the Subject:
[description then followed.]

IN THE SUPREME COURT OF CALIFORNIA

In re the Marriage of STICH	)	
RODNEY F. STICH, Petitioner,	)	COURT OF APPEAL A036318
v.	)	Superior Court No. 83472 Solano County
SUPERIOR COURT OF THE STATE OF CALIFORNIA, for the County of Solano, Respondent,	)	
EMMA W. STICH, Real Party in Interest.	)	

TO THE PRESIDING JUSTICE OF THE FIRST APPELLATE DISTRICT, AND ASSOCIATE JUSTICES:

PETITION FOR HEARING
BENCH WARRANT FOR PETITIONER'S ARREST

ABSENCE OF PERSONAL JURISDICTION, BAD FAITH CONDUCT

VIOLATION OF STATE, FEDERAL AND CONSTITUTIONAL LAW

EMERGENCY STAY REQUESTED

RODNEY F. STICH
P.O. Box 11455
Reno, Nevada 89510
Phone: (702) 826-1185

(APPENDIX "B")

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Exhibit "B": May 10, 1983 filed decision of respondent court refusing to dismiss the "divorce" action.

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Exhibit "D": Divorce Judgment rendered on January 31, 1966, and the confirmed registration of that judgment in the Superior Court, County of Contra Costa, State of California.

Exhibit "E": Reduction of the confirmed registration judgment into a Nevada divorce judgment.

Exhibit "F": Registration of the confirmed registration in

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Exhibit "G": Registration of the judgment in Oklahoma court.

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TABLE OF AUTHORITIES

CALIFORNIA COURT CASES

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IN THE SUPREME COURT OF CALIFORNIA

In re the Marriage of STICH	
RODNEY F. STICH, Petitioner,	COURT OF APPEAL A036318
v.	Superior Court No. 83472
SUPERIOR COURT OF THE STATE OF CALIFORNIA, for the County of Solano,	Solano County
Respondent,	
EMMA W. STICH,	
Real Party in Interest.	

TO THE PRESIDING JUSTICE OF THE FIRST APPELLATE DISTRICT, AND ASSOCIATE JUSTICES:

PETITION FOR HEARING

Petitioner petitions this court for a hearing on bench warrant issued for

petitioner's arrest, a Nevada resident, in a collateral attack upon the personal jurisdiction of a divorce court 21 years ago, raising the illegal and unconstitutional domicile invalidating argument. The bench warrant for petitioner's arrest (Exhibit "A.") was issued without petitioner having made a general appearance, while petitioner is as a matter of law in a protected special appearance status, and by a deliberate and unconstitutional interpretation of state law, while violating major human rights as recognized in free countries controlled by law. Petitioner seeks an emergency stay/restraining order, without waiting for the 30 day expiration following the rendering of a decision by Division Five, First Appellate District.

Petitioner requests that this court

issue an immediate and emergency stay, and an injunction, against enforcement of the bench warrant, and requests that this court set a hearing for a preliminary injunction, to:

a. Enjoin the respondent court, their agents, and all persons in active concert and participation with them, from enforcing the attached bench warrant for plaintiff's arrest (Exhibit "A").

b. Enjoin earlier orders that plaintiff be held in contempt for his failure or financial inability to pay void orders rendered by Division Five, First Appellate District, Court of Appeals, and the respondent court.

I. QUESTIONS PRESENTED.

1. Is the respondent court unconstitutionally interpreting and applying state law, when it issues a bench warrant for petitioner's arrest under the following conditions:

a. When petitioner is in a protected special appearance status, and had not made a general appearance?

b. When the respondent court lacks personal jurisdiction under procedural due process (arising from absence of a general appearance and protection of a special appearance status)?

c. When the respondent court lacks personal jurisdiction under substantive due process, which requires the respondent court to recognize the 1966 divorce

judgment, and the six subsequently registered judgments in court jurisdictions throughout the United States and the entry as a Nevada judgment, and prohibits collateral attacks or relitigation upon such judgments?

d. When the respondent court lacks subject matter jurisdiction under the Family Law Act to render the orders, arising from the divorce judgments previously rendered and registered?

e. When the underlying order for the bench warrant arose from the void, illegal and unconstitutional order of Division Five Justices, as stated in the published decision, In re Marriage of Stich (1985) 167

Cal.App.3d 226?

f. When the bench warrant for petitioner's arrest was rendered on the basis that petitioner, a Nevada resident, appeared via legal counsel rather than personally appeared, when such appearance by legal counsel is permitted as a matter of law?

g. When self serving bad faith conduct, violating every relevant protection in -substantive and procedural state, federal and constitutional law, is inflicted upon petitioner by a respondent court judge whose vested and financial interests requires such continued violations? (arising from earlier violations that have led to several civil right

violations actions being filed against him, and whose self-interests arise from continued and escalating violations.)

h. When acts taken against petitioner, including the bench warrant for petitioner's arrest, serve the vested interests of the respondent court judge, denying petitioner any possibility of obtaining a fair and impartial trial as constitutional required?

i. When a bench warrant was rendered for petitioner's arrest by an illegal and unconstitutional misuse of the state judicial process, misusing the California court system in a vendetta against petitioner?

j. Without determining whether the party is able to pay, since previous orders halted the party's sole source of income for the preceding three years?

k. When the orders for which petitioner was allegedly in contempt were orders rendered while petitioner was in a protected special appearance status and protected against such orders; and the court lacked personal jurisdiction; when the statutory requirements for subject matter jurisdiction were lacking; and the orders were in violation of federal and state law?

l. When all state court actions have been halted by the filing of

three prior notices of appeal?

m. When all state court actions have been halted by the filing of a petition for removal with federal court, and the petition is under appeal in such federal courts, and the action not yet remanded due to the appeal?

2. Is a citizen of the United States entitled to a fair and impartial trial before a court lacking strong vested and financial interests in the continued total destruction of a party's civil and constitutional rights, and that has already shown this misconduct in earlier hearings?

3. Must petitioner continue to be a literal, citizen without a country, totally deprived of each and every relevant due process and equal protection

of the law, by a blatant violation of such rights by Division Five Justices, with knowledge of such violations by the California Supreme Court who also have a responsibility under Title 42 United States Code Section 1986?

REASONS FOR GRANTING PETITION

A hearing before the California Supreme Court is necessary to secure uniformity of decision as to:

a. Requirement for personal appearance of a Nevada resident before a California court on an Order to Show Cause for Contempt, when that party appears via legal counsel, and when that party is physically unable to appear.

b. Requirement for personal jurisdiction, for a general appearance, to have been made, before orders can be rendered arresting a Nevada resident in

an action collaterally attacking a prior divorce judgment on the basis of substitution of constitutional due process requirements with the illegal and unconstitutional domicile invalidating argument.

c. Where the original orders were rendered without personal jurisdiction to have rendered such orders, without statutory requirement for subject matter jurisdiction, and by an unconstitutional interpretation and application of state law.

d. Under the requirements of Title 42 United States Code Section 1986, where the Justices of the California Supreme Court have the same responsibilities as others, to intervene when major violations of civil and constitutional rights are being openly perpetrated by

the respondent court and the justices of Division Five.

WHEREFORE, petitioner requests that:

1. An alternative writ of prohibition be issued, immediately restraining the respondent court, the Superior Court of the State of California, in and for the County of Solano, its officers and agents, and all persons acting by and through its orders, from taking any further steps or proceeding, and from enforcing their bench warrant for petitioner's arrest.

2. An alternative writ of prohibition be issued, immediately restraining Division Five Justices from hearing any actions involving petitioner.

3. That this court grant an immediate stay of the bench warrant for petitioner's arrest.

4. That this court grants a hearing for further arguments.

Dated: September 25, 1986.

Respectfully submitted,

_____
Rodney F. Stich
Petitioner in pro per

IN THE SUPREME COURT OF CALIFORNIA

In re the Marriage of STICH	
RODNEY F. STICH, Petitioner,	COURT OF APPEAL A036318
v.	Superior Court No. 83472
SUPERIOR COURT OF THE STATE OF CALIFORNIA, for the County of Solano,	Solano County
Respondent,	
EMMA W. STICH, Real Party in Interest.	

TO THE PRESIDING JUSTICE OF THE FIRST APPELLATE DISTRICT, AND ASSOCIATE JUSTICES:

INTRODUCTION

A bench warrant for petitioner's arrest has been rendered by the respondent court, arising from an

unconstitutional interpretation and application of state law, and by a self-serving vendetta which escalates the massive violation of petitioner's civil and constitutional rights.

The bench warrant was rendered by an unconstitutional interpretation of State law, holding that petitioner, a Nevada resident, must personally appear, and cannot appear via legal counsel. The bench warrant, and other orders taking and destroying petitioner's personal liberties, his personal and property rights, were ordered solely on the self-serving collateral attack action filed by opposing legal counsel, without petitioner having made a general appearance, while petitioner is protected by the protective special appearance, and protected by state, federal and

constitutional law.

The respondent court is acting outside the law, without personal jurisdiction, and without the statutory requirement for subject matter jurisdiction.

This unconstitutional interpretation was juxtapositioned with judicial misconduct, in that the respondent court judge knew that petitioner could not personally appear because he was at that same time and date appearing in federal court, along with County Counsel defending that same judge in a federal civil right violation action filed by petitioner.

The bench warrant for petitioner's arrest was rendered while all state court proceedings have been halted by the filing of a petition for removal on June 17, 1986, action CIVS-86-0715 MLS, and

the earlier petition for removal filed in the United States District Court, State of Nevada. The California petition for removal was dismissed, but the appeal of the decision prevented a remand of the case to state court. Prior to that petition for removal an earlier petition had been filed in the United States District Court, District of Nevada, which continued the removal action and halted all state court proceedings. The respondent court continued orders as if the action had not been removed.

The bench warrant for petitioner's arrest was illegally and unconstitutionally rendered while all state court proceedings have been halted by the filing of notices of appeal.

The bench warrant for petitioner's arrest was rendered while petitioner was

in a protected special appearance status, without having made a general appearance, causing the orders to have been rendered without personal appearance.

The bench warrant for petitioner's arrest was rendered without subject matter jurisdiction, due to the presence of prior divorce judgments voiding the Family Law Act remedies. A total of eight divorce judgments had been rendered, reduced to a local judgment, registered and confirmed, or registered, throughout the United States, including the State of California. The respondent court knowingly lacks subject matter jurisdiction.

The bench warrant for petitioner's arrest sought authority from the Family Law Act, but the act provides no authority for collateral attacks on prior

eight divorce judgments; provides no authority for relitigating the personal jurisdiction of the 1966 divorce court, or the jurisdiction of the seven other jurisdictions that registered the original judgment as a local judgment. The Family Law Act and related statutory law prohibits the actions taken by the respondent court, and clearly prohibits the raising of the absence of domicile invalidating argument, that if applied to other citizens of the United States, would void most judgments rendered within the 50 United States.

The arrest warrant violates federal law as to judgment recognition; protection against collateral attacks, the right to a hearing before suffering a taking and destruction of important personal liberties and property rights.

The respondent court has violated every single substantive and procedural due process right relevant to petitioner's defense against the sham divorce action filed by legal counsel. It has illegally refused to recognize a 1966 divorce judgment, the reduction of that judgment as a judgment in a sister state, the registration and confirmation of that 1966 judgment in California courts, the registration in other state courts, including Nevada, Oklahoma, Texas and Colorado. The respondent judge has refused to recognize the judgment on the illegal and unconstitutional domicile invalidating argument, and then compounds these violations by refusing to allow petitioner to introduce the prior divorce judgment into evidence, refuses to allow testimony and written evidence of having

acquired domicile, to be admitted. These revealing acts are followed by other bad faith acts, including obstruction with obtaining discovery, halting cross examination of witnesses when the testimony on direct is being impeached, fabricating facts out of whole cloth or reversing the evidentiary facts, so as to support the perjured and suborned declarations and testimony of the real party in interest and her legal counsel.

The respondent court issued the bench warrant knowing that it lacked personal jurisdiction to do so, and knowing that he was acting in violation of state law. The respondent court refused to disqualify itself when the judge had a vested and financial interest in the further destruction of appellant's civil and constitutional rights.

The bench warrant was issued under highly irregular circumstances, in violation of law, and by an unconstitutional interpretation and application of state law, including:

1. The respondent court knew that petitioner, a Nevada resident, as a matter of law, need not personally appear in a California court proceeding when represented by legal counsel. The respondent court judge knew that petitioner could not physically be present, in that petitioner was knowingly appearing at that same time and date in a federal court proceeding in which that same California respondent court judge was a defendant. Petitioner was appearing in federal court, along with legal counsel representing that same California judge, in a federal civil right violation

action.

2. The bench warrant for petitioner's arrest was issued when all state court proceedings had been halted by the filing of three different notices of appeal, that under California Code of Civil Procedure Section 916 halted all state court proceedings.

3. The bench warrant was issued when all state court proceedings were halted by the filing of a petition for removal with the United States District Court, Eastern District of California, under the provisions of Title 28 United States Code, Sections 1446 and 1447. (CV-S-86-715-MLS and appeal 86-2261.)

4. The bench warrant was issued with the full knowledge that petitioner was in a protected special appearance status as a matter of law, arising from his earlier

filing of a motion to quash; that the respondent court lacked personal jurisdiction in a divorce action on the basis that the marriage between the parties had been legally terminated 21 years earlier; that the marriage termination was legally established under federal law; and by divorce judgments registered and confirmed in California courts; registered in courts of five states; and entered as a local divorce judgment in Nevada.

5. With the knowledge that the original order from which the arrest warrant sought support was void, in that the Justices of Division Five rendered the orders knowing that petitioner was in a protected special appearance status, and that their actions were in violation of state, federal and constitutional law.

The bench warrant arose from an earlier published decision of Division Five, First Appellate District (In re Marriage of Stich (1985) 167 Cal.App.3d 226). The published decision unconstitutionally interpreted and applied California law, in a vendetta against petitioner, misusing their position as Justices of the California Appellate court.

The massive fabrications of fact, misstatements of law, violation of important state, federal and constitutional law, by the respondent court in such key decisions as the orders filed May 10, 1983; January 14, 1986, and the bench warrant for petitioner's arrest, indicate a conspiracy far beyond judicial error or illiteracy. When the facts are thoroughly examined and juxtapositioned, it shows an attempt by

or through the San Francisco law firm, to destroy petitioner's money and property rights so as to halt his multiple exposure activities relating to a major aviation and government scandal associated with resulting airline crashes, discovered by petitioner while he was a government air safety investigator. The respondent court was either a part of the original scheme, or willingly participated in it when the original outline did not go according to plan.

In this discretionary writ the Presiding Judge of the First Appellate District is made aware of major violations of civil and constitutional rights, and the probable criminal misuse of the California judicial system, which invokes a responsibility under various

state and federal law, including Title 42 United States Code Section 1986.

ARGUMENT

I. IT IS AN UNCONSTITUTIONAL INTERPRETATION AND APPLICATION OF STATE LAW TO ORDER PETITIONER ARRESTED FOR APPEARING VIA LEGAL COUNSEL, ESPECIALLY WHEN PETITIONER RESIDED IN NEVADA, AND IS PHYSICALLY UNABLE TO APPEAR.

The sole basis on which the bench warrant for petitioner's arrest was issued on the argument that petitioner was not personally present before the court. Disregarding the absence of personal jurisdiction and other protections, petitioner, a Nevada resident, did not have to personally

appear in a California divorce action. Petitioner appeared by legal counsel, as provided by California law. The court held in Morelli v. Superior Court (1968) 262 C.A.2nd 262, 269:

> It has long since been settled that in a proceeding arising out of a civil action charging a person with contempt for failure to obey an order made in that proceeding ... the court has no power to command the alleged contemnor to appear in person.

The Morelli court also held that appearance by the alleged contemnor's attorney is sufficient compliance with the court's order to show cause and the court has no jurisdiction to order the alleged contemnor to appear personally. Morelli, supra, page 268.

The Morelli court cited the California Supreme Court case of Ex parte Gordan, 92 Cal. 478, which held that a person summoned to court to show cause could

appear and show cause through his attorney. This would allow the court to hear and determine the issue of contempt with no loss of jurisdiction over the alleged contemnor. This holding has been restated and applied in later cases including: Foley v. Foley, 120 Cal.33, 52 P 122; Bakeman v. Superior Court, 37 Cal.App 785, 1784 P 911, and Silvagni v. Superior Court 157 Cal App. 2d 287, 291-292; 321 P 2d 15.

Plaintiff was denied the protection stated in Morelli, supra, page 270:

> We hold, accordingly, that the court had no power to order the issuance of a bench warrant ..., for the purpose of compelling the attendance of (the alleged contemnor) in court in person in response to the order to show cause, and in doing so it exceeded its jurisdiction.

Petitioner appeared via legal counsel at the initial hearing on the Order to Show Cause on April 25, 1986. The

respondent court held that unless petitioner personally appeared on May 9, 1986, a bench warrant would issue for plaintiff's arrest. The judicial defendants knew, at that time, that plaintiff was already calendared to appear before the United States District Court in Sacramento at the same time and date, in an action filed by petitioner against that same California judge. The rendering of the bench warrant appeared to be motivated by a vendetta, misusing the California judicial system, with a possible intent to incarcerate petitioner and seriously hamper petitioner's defense against the escalating violation of state, federal and constitutional law.

The respondent court knew, and opposing counsel knew, before they requested, and prepared, a bench warrant

for petitioner's arrest, that:

a. Petitioner was physically unable to appear. Plaintiff was appearing on that same May 9, 1986 hearing date, at that same time, in Sacramento, California, in a pre-trial conference, in the United States District Court, Eastern District of California, in action 86-210 MLS. Judge Jensen, who rendered the bench warrant for petitioner's arrest, knew that at that very moment petitioner was appearing in that previously calendared federal court proceeding, and appearing with Solano County counsel, who was representing that same judge who was a defendant in a civil right violation action filed by petitioner.

b. As a matter of law, petitioner, a Nevada resident, was not required to personally appear before the respondent

court on their Order to Show Cause motion, and that petitioner could appear by legal counsel, which he did do.

c. Petitioner had previously submitted a declaration stating that he was not deliberately refusing to pay any orders, irregardless of their illegality, but that the halting of his income for the past three years prevented him from paying the illegal orders. Petitioner stated in his May 5, 1986 Declaration of Willingness to Pay that he would pay if he was financially able to do so.

d. Orders for which plaintiff allegedly was in contempt were orders rendered while petitioner was in a protected special appearance status, orders void on their face arising from the outright violation of major state and federal law. The orders also arose out of

the published decision of the California Court of Appeal, In re Marriage of Stich, 167 Cal.App.3d 226 (1985), which was riddled with fabrications of fact, misstatements of law, character assassination, depicting a grave form of misconduct within the California judicial system, misused against a targeted citizen.

The severe sanctions and attorney fees were ordered as punishment for exercising plaintiff's basic due process rights, including:

a. Filing a Motion to Quash challenging the judicial defendants personal jurisdiction over him, on the basis of the prior divorce judgments, the judgment being the specific reason for filing the motion to quash and challenging the California court's

personal jurisdiction under California Rule of Court 1230(a)(2) and California Code of Civil Procedure Section 418.10(a)(1). The published decision, In re Marriage of Stich (1985) 167 Cal.App.3d 2326, rendered by the three Justices of Division Five, held that this exercise of procedural due process constituted a frivolous act, for which approximately $50,000 in sanctions, attorney fees and other orders, and a perpetrated character assassination, were inflicted upon petitioner.

b. Filing a petition for Writ of Prohibition when the judicial defendants denied plaintiff's Motion to Quash, in violation of state and federal law. The motion to quash was denied, following refusal to allow petitioner to present his prior divorce judgment--which was the

sole basis under law for filing the motion to quash under Rule 1230. The denial was accompanied with a refusal to allow petitioner to testify and present evidence showing he did in fact acquire domicile status, which was the sole basis--though illegal and unconstitutional, for the respondent court's refusal to dismiss the sham "divorce" action. No testimony or written evidence of any kind was allowed to be admitted, or arguments presented, relative to the motion to quash. The published decision held that this filing of a petition for writ of prohibition, specifically provided by California Code of Civil Procedure Section 418.10(c), was the second of the three reasons for inflicting the orders upon petitioner, which served as the initial base for the

arrest warrant.

c. Filing an appeal of the orders to pay attorney fees and costs to be sued in an action prohibited under law, and the order to support the person filing the illegal action--who in Texas declares herself divorced from petitioner. The appeal was based, inter alia, on absence of personal jurisdiction over the unmarried parties in a marriage termination action; the prior divorce judgments which strips the California court of the statutory requirements for subject matter jurisdiction under the Family Law Act and specifically California Civil Code sections 4357 and 4370 (statutory authority for orders to pay temporary spousal support and attorney fees in a marriage termination action). The appeal was filed under

California Code of Civil Procedure Sections 902 and 904.1.

The respondent court has a strong vested and financial interest in the continued violation and destruction of petitioner's personal liberties and property rights, in the continued violation of every protection in substantive and procedural law. Judge Jensen is a defendant in more than one civil right violation action, and must continue to deprive petitioner of the violated rights to avoid a self-serving admission that he had knowingly acted without personal jurisdiction; knowingly violated every protection in relevant state, federal and constitutional law upon which petitioner relied for rights accepted and expected in a country of law; deliberately inflicted great

irreparable harm upon petitioner; engaged in bad faith misconduct, if not judicial misfeasance and malfeasance; while acting under color of state law.

Petitioner is in a lawless, no-win situation. The vested interests of the respondent court and judge, are commingled with that of the Justices of Division Five, First Appellate District, and opposing legal counsel, all of whom engaged in massive violations of civil and constitutional rights, knowing that petitioner was in a protected special appearance status. All have a vested interest in continued violation of petitioner's due process and equal protection of the law. If they should cease violation of major state, federal and constitutional rights, they admit their earlier massive violations, and

incur liability under the civil right violation act, and exposing the nature of the conspiracy and misconduct.

The nature of the issues presented to this California Supreme Court necessitates direct intervention, to halt the criminal misuse of the California judicial system against a citizen of the United States.

Ironically, neither petitioner, nor the real party in interest, were residents of California during the 1966 divorce proceedings, and neither is a resident of California at this time. Although eight different divorce judgments show them to be divorced, and the numerous protective and controlling law in California recognizes the validity of the prior divorce judgments, the respondent court and Division Five

Justices continue trampling the protections provided, to continue the infliction of great irreparable harm upon petitioner. This is not, judicial "error."

In the States of California, Texas, Oklahoma, Nevada, and Colorado, the petitioner and real party in interest are recognized under state law and by judicially registered divorce judgments, to be divorced. Under federal law they are recognized as divorced. Only in the self-serving eyes of the respondent court judge, with his strong vested and financial self serving interests to protect, are the parties "married." Even the real party in interest declares herself divorced from petitioner. The constitutional right to a fair and impartial tribunal, rather than a

tribunal with a vested and financial interest in the continued violation of major civil and constitutional rights, is denied to petitioner, as the respondent state court judge refuses to disqualify himself under California Code of Civil Procedure Section 170.1.

II. THE RESPONDENT COURT KNOWINGLY LACKED PERSONAL JURISDICTION OVER PETITIONER WHEN IT ISSUED THE BENCH WARRANT FOR PETITIONER'S ARREST.

a. Absence of Personal Jurisdiction Arises In The Underlying "Divorce" Action On The Basis Petitioner Was Legally Divorced From the Real Party In Interest 21 Years Ago, As Established By Six Divorce Judgments.

The instant action relies for personal

and subject matter jurisdiction on the Family Law Act. But there is no support in the Act for collateral attacks upon a prior divorce judgment. There is no support in the Family Law Act to relitigate the personal jurisdiction of a court 21 years ago, in whose jurisdiction petitioner resided. There is no support in the Family Law Act to force upon the sovereign court, foreign to California, and to residents of such foreign court, the retroactive substitution of domicile determination and acquisition, in place of constitutionally and universally recognized bases for personal jurisdiction.

Federal and California law prohibits, as clearly stated in a numerous doctrines, decisional law, statutory law, rules of court, and court practice,

making collateral attacks, relitigating, or voiding prior divorce judgments and the personal liberties and property rights arising from such judgments, the domicile invalidating argument that had been declared illegal and unconstitutional for the past 40 years. Federal and state law prohibits relitigating the personal jurisdiction of a court that adjudicated that matter, and in the instant action, adjudicated the matter 21 years ago. The law prohibits collateral attacks upon prior divorce judgments.

The underlying California divorce action, from which the respondent court sought to support to support the bench warrant for petitioner's arrest, is itself void, making orders arising from such void proceeding similarly void.

There is not a single support in modern law for the illegal and unconstitutional actions of the respondent court in refusing to dismiss the "divorce" action.

The collateral attack and relitigation of the personal jurisdiction of a court 21 years ago has violated a multitude of protective state and federal law, as the respondent court holds that:

aa. The 1966 court allegedly lacked jurisdiction to render the 1966 divorce judgment, and impliedly the tens of thousands of others, on the basis that it did not require a determination or acquisition of the subjective mental state of domicile. No known law or court practice in the 50 United States, or in any foreign country, requires

domicile determination, or even acquisition, as a basis for personal jurisdiction. Landmark decisions addressing divorce judgments rendered by that 1966 court upheld a one-day residence as proper for personal jurisdiction, making petitioner's five month's residence obviously adequate.

bb. That petitioner's five month's residence did not constitute domicile, and therefore the 1966 court lacked personal jurisdiction to render the judgment, to make the property determination, and that on this lack of mental thought processes constituting domicile, petitioner can now be stripped of his

property rights adjudicated in 1966, and stripped of the property rights he acquired during the subsequent 21 years. That decision was rendered without allowing petitioner to introduce evidence that he did in fact acquire domicile, and without any evidence whatsoever that he failed to acquire that status.)

Petitioner's divorced status and property rights are already legally established under law in the States of California, Nevada, Oklahoma, Texas, and Colorado, as well as federal law. The 1966 divorce judgment is already a final judgment in the State of California, having been registered, and then confirmed, in the Superior Court, County

of Contra Costa, State of California (Exhibit "D"), under the provisions of California Code of Civil Procedure Section 1699(c). Upon confirmation, following the 20 day notice to the real party in interest, the registered and confirmed judgment must be recognized and treated as a local California judgment. Local judgments are further protected, and establish the rights and obligations of the parties, as provided by California Civil Code Sections 4554, and Code of Civil Procedure 1908 and 1913.

The confirmed judgment entered in the Superior Court, Contra Costa County, State of California, was then entered as a Nevada judgment (Exhibit "E"), and entered in the foreign judgment registry in Nevada ("F").

The 1966 divorce judgment was

registered in the Civil Court of the County of Dallas, Dallas, Texas (Exhibit "H"). The registered and confirmed divorce judgment from the Superior Court, County of Contra Costa, State of California, was registered in the district court, County of Oklahoma, Oklahoma City, Oklahoma (Exhibit "G"). The 1966 judgment was registered in the district Court, County of Denver, Denver, Colorado (Exhibit "I"). All of these judgments were public acts of sister states, and entitled to Full Faith and Credit.

The respondent court illegally refuses to recognize any of these judgments, and violates petitioner's personal liberties and property rights established therein.

b. Petitioner Has Been In A Protected Special Appearance

Status Since the February 18, 1983 Filing of the Motion to Quash, Upon Which A Decision Was Not Rendered Until January 14, 1986, Which Is Now Under Appellate Review.

California Rule of Court 1230(a)(2) provides for filing a motion to quash attacking the respondent court's personal jurisdiction over him.

> "(2) That there is a prior judgment ... between the same parties for the same cause."

Petitioner challenged the California court's personal jurisdiction, and filed a motion to quash on February 18, 1983, as further provided by California Code of Civil Procedure Section 418.10(a)(1). The filing of the February 18, 1983 motion to quash, based upon the prior divorce judgment, placed petitioner in a

protected special appearance status, as provided by California Rule of Court 1232 and California Civil Code Section 4356. In this status petitioner was protected against any orders of the respondent court, including relitigation of the prior court's personal jurisdiction. (California Rule of Court rules 1230, 1232, California Civil Code Section 4356.)

> Section 4356. Special Appearance During Pendency of Motion.
>
> (a) During the time a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending, the respondent may appear in opposition to an order made during the pendency of this part and the appearance shall not be deemed a general appearance by the respondent.
>
> (b) As used in this section, a motion pursuant to Section 418.10 of the Code of Civil Procedure is pending from the time notice of motion is served and filed until the time within which to petition for a writ of mandate has expired, ...

Even though petitioner was in a protected special appearance for over three years, through the January 14, 1986 filing of a decision on the motion to quash, and protected against orders and trials related to the underlying action, the respondent court continues to render orders taking and destroying petitioner's personal liberties and property rights. The January 14, 1986 decision was appealed, continuing the protected special appearance status provided by Civil Code Section 4356.

Depriving petitioner of an important and fundamental constitutional right, the three Justices of the California Court of Appeal, Division Five, held in its published decision that petitioner's filing of a motion to quash--as specifically provided by California Rule

of Court 1230(a)(2) and California Code of Civil Procedure Section 418.10(a)(1), was a frivolous act for which he should be severely punished. This was accomplished by a combination of severe financial sanctions, attorney fees and other orders that totaled approximately $50,000, and by fabricating facts for a character assassination. The published decision stated and implied that petitioner should not have exercised these due process remedies which are at the heart of a free society and a country of law, and should have allowed the California court to void the property rights adjudicated in the various divorce judgments, and void the property rights acquired as a legally divorced person during the subsequent 21 years.

Although the authority for filing a

motion to quash was based on the prior divorce judgment, and was the basis of California Rule of Court 1230(a)(2) for filing the motion, the respondent court refused to allow petitioner to submit a copy of the judgment during the February 25, 1983 hearing on the motion to quash, making the hearing a sham. At the next hearing on the motion to quash the respondent court reluctantly allowed the judgment to be entered, and rather than dismiss the action as provided under California law, ordered a relitigation of the 1966 court's personal jurisdiction (that had already been accepted by the judicial registration and confirmation of the judgment in the Superior Court, County of Contra Costa, State of California, and in the registration of the judgment in five other judicial

districts).

Had the respondent judge complied with the law and dismissed the "divorce" action after the massive numbers of orders were rendered that destroyed important personal liberties and property rights for the prior three years, the respondent court and judge would have impliedly admitted his violation of the kingpin of civil right protections: acting without personal jurisdiction; acting in violation of state law; causing great irreparable harm; while acting under color of state law. By refusing to disqualify himself following petitioner's filing of a section 170.1 motion, the respondent judge minimized the risk of another judge finally complying with the law.

After refusing to dismiss the

collateral attack action following the presentation of the 1966 divorce judgment, the confirmed registration of that judgment from another California court, and the admission of a Nevada divorce judgment, the respondent court then enlarged on its attempt to deny petitioner every opportunity to defend himself. The respondent court and judge refused to allow petitioner to introduce numerous writings to support his domicile status, which addressed the illegal raising of the domicile invalidating argument. The same tactic was used during the February 25, 1983 hearing, as the respondent court refused to allow petitioner to introduce testimony and written evidence on the matter of his residence and domicile status.

A motion to quash hearing based upon a

prior divorce judgment does not permit relitigation of the 1966 divorce proceedings and the retroactive requirement of the illegal and unconstitutional domicile invalidating argument. Rule 1230(a)(2) is based upon a prior divorce judgment, and permits only the introduction of that prior judgment.

The August 1985 trial subjecting petitioner to a relitigation of the personal jurisdiction of the 1966 divorce court violated well-established law. The respondent court illegally relitigated the personal jurisdiction of the court 21 years earlier, which was outside the authority of a Rule 1230(a)(2) motion, and was not authorized under the Family Law Act. In addition, the relitigation, the collateral attack, violated the protection in California and federal law

requiring that the 1966 divorce judgment, and the judgments entered/registered in six other court jurisdictions, be recognized, and protected against collateral attacks or relitigation, and be recognized under the Full Faith and Credit Clause of Article IV, Section One, of the United States Constitution.

During the August 1985 trial relitigating the personal jurisdiction of the 1966 divorce court, petitioner entered into evidence the confirmed and registered divorce judgment from the Superior Court, County of Contra Costa, State of California, which established his divorced status in California. (California Code of Civil Procedure Section 1699(b); the registration of the confirmed divorce judgment from Contra Costa County into the Superior Court,

County of Solano; an authenticated copy and original of the entry of the 1966 divorce judgment as a Nevada judgment; the registration of the registered and confirmed Contra Costa County judgment in the foreign judgment registry by a Nevada court. The respondent court refused to recognize the judgments.

Refusing to recognize these judgments that conclusively terminated the marriage relationship between petitioner and the real party in interest, the respondent court rendered a decision on January 14, 1986 on the motion to quash, literally remarrying petitioner to the real party in interest, in violation of state, federal and constitutional rights. This act violated, inter alia, the protection of the Full Faith and Credit Clause of the United States Constitution (Article

IV, Section 1), and the statutory implementation of that clause in California statutory law, including California Civil Code Section 5004 and California Code of Civil Procedure Sections 1908 and 1913.

Despite the obvious illegality of the domicile invalidating argument in California and federal law, in decisions of the California Supreme Court and federal landmark decisions, and without any support whatsoever, the respondent court continued its earlier raising of that argument, to protect its earlier violations, and knowing that the California Court of Appeal and California Supreme Court were protecting its violations, violating, inter alia, Titles 42 United States Code Sections 1983, 1985, and 1986.

In the January 14, 1986 decision the respondent court misstated the facts that were contradicted by the evidence, and misstated the law, far beyond the limits of naivete, as it did in its prior May 10, 1983 decision on the motion to quash. The respondent court held that the real party in interest had never appeared in the 1966 action, when in fact the divorce judgment recitals clearly stated she had appeared, citing the details of her appearance. The real party in interest had submitted declarations, and given testimony during the August 1985 trial, showing that she had appeared. This type of bad faith conduct continued throughout the four years between the filing of the Motion to Quash, and the filing of the impermissible collateral attack action.

c. California Law Protects

Petitioner Against Any Type of Collateral Attack Upon the Rights Adjudicated In the Prior Divorce Judgments Rendered/Registered/Reduced To a Local Judgment, In Jurisdictions Throughout The United States.

Relitigating the personal jurisdiction of the 1966 divorce court is clearly impermissible under law, especially so when the 1966 judgment has already been reestablished in jurisdictions in California and throughout the United States. These violations are further enlarged by the illegal and unconstitutional retroactive substitution and imposition of domicile determination in the place of the recognized bases for personal jurisdiction upon which the 1966 divorce court exercised its sovereignty,

and upon which residents of such foreign courts exercised their due process rights. It is beyond the power and jurisdiction of the respondent court to dictate to a court foreign to California that its judgments will be void in California if that court does not require a determination and acquisition of domicile of those appearing for a divorce.

This judicial arrogance deprives residents of jurisdictions foreign to California of their due process right to obtain a divorce, and their equal protection under the law.

California Evidence Code 666 states:

Section 666. Judicial Action Lawful Exercise of Jurisdiction.

[A]ny court of this state ... or ... any other nation ... is presumed to have acted in the lawful exercise of its jurisdiction ... when the act ... is under collateral attack.

For arguendo, if the 1966 divorce court lacked personal jurisdiction, the judgment must be recognized under Civil Procedure section 1713.5, which prevents attacks on the personal jurisdiction of the prior court, and provides for normally acceptable bases for personal jurisdiction:

> Section 1713.5. Personal Jurisdiction of Defendant--Bases.
>
> (a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if
>
> (2) The defendant voluntarily appeared in the proceedings ....
>
> (3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

California law and court practice does not require domicile as a basis for personal jurisdiction, and neither does the law and court practice of any known

jurisdiction within or outside of the United States. California law provides for other bases for jurisdiction than the domicile basis (which in turn avoids denying the constitutional right to a divorce to those with highly mobile life styles, or those forced to move to seek employment elsewhere). California Code of Civil Procedure section 1713.5 (b) provides for bases of personal jurisdiction based on residence, as used throughout the United States:

> The courts of this state may recognize other bases of jurisdiction.

California Code of Civil Procedure Section 1713.5 provides for additional protection against either collateral attacks upon the jurisdiction of the prior foreign judgment, or the retroactive substitution and forcing of new bases for personal jurisdiction by

the respondent court of domicile, upon other courts, and upon residents of such foreign courts:

Section 1713.5. Personal Jurisdiction of Defendant--Bases.

(a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

(2) The defendant voluntarily appeared in the proceedings, ...
[which she did by signing notarized divorce documents, submitting them to her legal counsel, submitting to the personal jurisdiction of the 1966 divorce court, and her appearance by legal counsel, which also appeared in the judgment recitals.]

(3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
[which was implied by her actions in voluntarily signing the notarized divorce documents, not appealing, accepting the benefits of the divorce proceedings and divorce judgment, and not raising any objections for the next 17 years.]

(4)(b) The courts of this state may

recognize other bases of jurisdiction.

California Code of Civil Procedure Section 430.80, provides that is an objection is not made to personal jurisdiction, it is waived:

> Section 430.80. Objections Waived by Failure to Object.
>
> (a) If the party against whom a complaint or cross-complaint has been field fails to object to the pleading, either by demurrer or answer, that party is deemed to have waived the objection ...

d. The Domicile Invalidating Argument Upon Which the Respondent Court Refused to Recognize the Prior Divorce Judgments Has Been Held To Be Illegal and Unconstitutional For the Past Forty Years.

The sole basis for the respondent court's May 10, 1983 decision refusing to dismiss the instant action, and upon

which the bench warrant for petitioner's arrest had its roots, was based upon:

aa. A holding that the "evidence" showed petitioner's 1965-1966 residence did not constitute domicile status, in that petitioner's mental thought processes did not intend to either live forever, or for an indefinite period of time, in the 1966 court's jurisdiction. Impliedly, this argument voids most divorce judgments ever rendered by any court, should the person thereafter travel to California.

bb. A holding that the 1966 divorce judgment, and impliedly the tens of thousands of other judgments rendered by that court

jurisdiction, were void, as that earlier court did not require, and did not determine, the domicile status of the parties.

In Scott v. Scott (1958) 51 Cal.2d 259, Justice Traynor held:

"There is no reason to read any requirement of domicile or bona fide residence into the statute [California Code of Civil Procedure Section 1915.]

Decisions of the California Supreme Court protected petitioner against the raising of the domicile invalidating argument and holding. These decisions include:

In Rediker v. Rediker (1950) 35 Cal.2d 796, the court held:

[I]t must be presumed that the foreign court had jurisdiction and that its recital thereof is true ... If a court has jurisdiction of an action, a judgment entered therein is not subject to collateral attack on a showing of error in the exercise of that jurisdiction ... The validity of

a divorce decree cannot be contested by a party who ... aided another to procure the decree ...

In Spellens v. Spellens (957) 498 C.2d 210, the court held

[T]he principle of estoppel is applicable [when] the divorce decree was alleged to be invalid for lack of jurisdiction ...

In Scott v. Scott (1958) 51 C.2d 249, the court held:

Section 1915 of the Code of Civil Procedure provides: "A final judgment of any other tribunal of a foreign country having jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as in the country where rendered, and also the same effect as final judgments rendered in this state.

The District Courts of Appeal of this state have denied recognition to divorce decrees of a foreign country when domicile was lacking, even though the foreign country did not require domicile as a basis for divorce judgment. ... These cases should be disapproved insofar as they make domicile a sine qua non of recognition.

[A] decree of divorce that is valid according to the laws of the foreign country should be recognized here.

(See Ruiz, The Effect of Section 1915 of the Code of Civil Procedure on Migratory Divorces Procured in Foreign Countries, 13 So.Cal.L.Rev. 294; Ehrenzweig, Survey of California Law 1950-1951, Conflicts of Laws, 141-142.0

There is no reason to read any requirement of domicile or bona fide residence into the statute. The status of persons as married or not married should be ascertainable with reasonable certainty. The valid judgments of courts of other countries should therefore be respected....

In Whealton v. Whealton (1967) 67 C.2d 656, 663, Justice Traynor again repeated the holdings in Scott v. Scott, supra:

When both parties to a divorce action are before the court ... it is questionable whether domicile is an indispensable prerequisite for jurisdiction. If the moving party's mobility is greatly restricted, for instance, access to a domiciliary forum may be practically unavailable ... Moreover, when parties secure a divorce without the prerequisite domicile in the forum state, it may not be attacked at a later date by either of them ... Hence, the prerequisite of domicile may be easily avoided at the trial by parties wishing to invoke the jurisdiction of a court, with little fear in most

instances that the judgment will be any less effective than if a valid domicile in fact existed. [Emphasis added.])

The respondent court's arguments on domicile would void literally all divorce judgments rendered by any court in the United States or foreign court. No known court jurisdiction requires domicile, which would in turn unconstitutionally deprive persons of their right to divorce if either their life style or financial conditions required them to change their residence.

Federal law provides the same protection against raising the domicile invalidating argument, and requires the application of the doctrines of res judicata to either bilateral or ex parte divorce proceedings, including, inter alia:

Sherrer v. Sherrer (1948) 334 US 343,

the Court held:

> ...the vital rights and interests involved in divorce litigation may be held in suspense pending the scrutiny by courts of sister States of jurisdictional fact made by a competent court in proceedings ... in which the defendant has participated ... it is a matter of greater rather than lesser importance that there should be a place to end such litigation.

In Coe v. Coe (1948) 334 US 378 the Court reached the same conclusion. Similar holdings are found in Vanderbilt v. Vanderbilt (1957) 354 US 416.

The landmark and frequently cited decision of Perrin v. Perrin, 408 F.2d 107 (3rd Cir. 1969), addressed the tens of thousands of divorce judgments rendered by the same court jurisdiction in which appellant's marriage was terminated. The decision upheld the one day's residence requirement of that divorce court, upon which tens of

thousands of United States citizens relied for their marriage termination rights. Implicit in that decision was that domicile was not a required basis for personal jurisdiction, and that it was illegal and unconstitutional to invalidate prior judgments on an alleged or actual absence of domicile. Petitioner's five month's residence during 1965-1966 greatly exceeded the one day pseudo residence approved in Perrin:

> "Although he had no intention of making his domicile there, he did what the domestic law of the place required he do to establish a 'residence' of a kind which was set up as a statutory prerequisite to institute an action for divorce ... But domicile is not intrinsically an indispensable prerequisite to jurisdiction ... our public interest is not affected differently by a formality of one day than by a formality of six weeks. Nevada gets no closer to the real public concern with the marriage than Chihuahua ..."
>
> "A balanced public policy now requires that recognition of the bilateral

> Mexican divorce be given rather than withheld and such recognition as a matter of comity offends no public policy ..."

The enlightened courts of New York State had rendered identical decisions to approve the divorce judgments obtained by thousands of its own residents in the same court jurisdiction that the California respondent court refuses to recognize. Among the often cited decisions was Rosenstiel v. Rosenstiel (1965) 262 N.Y.S. 86, repeated almost word for word in Perrin, and followed by Greschler v. Greschler (1980) 434 N.Y.S. 2d 194; In the Matter of Rhinelander (1973) 290 N.Y. 31. Petitioner resided in New York State after obtaining the 1966 divorce judgment, and under law of that state he was recognized as a divorced person.

e. Attacks Upon the Personal

Jurisdiction of the Courts Are Limited To Objections During the Original Proceedings, and Cannot Be Made 20 Years Later.

In California proceedings an attack upon the court's personal jurisdiction is waived if not made within a limited number of days after service.

> Code of Civil Procedure Section 418.10. Defendant May Serve and File Notice of Motion to Quash Service of Summons or to Stay or Dismiss Action--Time Limit--Grounds--Conditions--Default.
>
> (a) A defendant, on or before the last day of his time to plead or within such further time as the court may for good cause allow, may serve and file a notice of motion either or both:
>
> (1) To quash service of summons on the ground of lack of jurisdiction of the court over him.

That protection is also denied and violated, as the respondent court seeks to void in California the personal jurisdiction that became res judicata 21

years ago, and which is inflicted on no other citizen of the United States.

f. The Prior Divorce Judgments Are Conclusive of the Rights and Obligations of the Parties, As a Matter of State and Federal Law.

California Civil Code 4554 states:

> Section 4554. Effect of Final Judgment.
>
> Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

This protection is extended to foreign state and foreign country judgments by California Civil Code Section 5164, by California Code of Civil Procedure Sections 1713.3 and 1915 (effected when

the 1966 judgment was rendered and for nine years thereafter.

Under California Code of Civil Procedure Section 1699(a) the registration of the 1966 divorce judgment invoked the protection of a local California judgment (Civil Code Section 4554):

> Section 1699, Enforcement of Foreign Support Order ...
>
> (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state.
>
> (b) The obligor has 20 days after the mailing or other service of notice of the registration in which to petition the court to vacate the registration or for other relief. If the obligor does not so petition the registered order is confirmed.

The same conclusiveness to be given to foreign state and foreign country judgments is shown by other California statutes, including, inter alia:

Civil Code Section 5164. Filing of Custody Decree of Another State with Superior Court Clerk.

(1) A certified copy of a custody decree of any other state may be filed in the office of the clerk of any superior court of this state. The clerk shall treat the decree in the same manner as a custody decree of the superior court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

Reflecting California omnibus international comity judgment recognition requirements under statutory law and public policy, the protection of section 5164 is extended to foreign country judgments by California Civil Code Section 5172:

Section 5172. International Applicability of Policies.

The general policies of this title extend to the international area. The provisions of this title relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees

involving legal institutional similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

The international judgment recognition requirements is reflected by California Code of Civil Procedure Section 1653(j), Civil Code Section 5172, Code of Civil Procedure 1914, 1915, and others.

The conclusiveness of the rights and obligation of the parties is shown in the 1966 divorce judgment, and the subsequently registered and finalized judgments in states throughout the United States, as it stated:

> The parties hereto stated their express agreement to the judgment rendered in this case declaring the legal dissolution of the marriage ... said judgment is hereby declared final and, in consequence, unappealable, in accordance with provisions of Article 395 subdivision I and 396 of the Code of Civil Procedure.

California Civil Code Section 4554 is

similar:

> Section 4554. Effect of Final Judgment.
> Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

g. California Statutory Law Specifically Requires Recognition Of The 1966 Divorce Judgment, The Judgments Registered and Confirmed in California Courts, Judgments Registered in Sister States, and Entered As Local Judgments in Sister States.

California Code of Civil Procedure

Code section 1908 provides:

> Section 1908. Conclusiveness and Effect of Judgment.
>
> (a) The effect of a judgment or final order in an action or special proceeding before a

court or judge of this state [is] ... conclusive between the parties.....

[extended to foreign country judgments by Civil Code Sections 5172, Code of Civil Procedure Sections 1653(j), 1713.3.]

California Civil Code section 1915 required that foreign country judgments be recognized as local California judgments. This statute was in effect when the 1966 divorce judgment was rendered and for nine years thereafter, giving finality of judgment effect personal and property rights and obligation of the parties.

Section 1915:

A final judgment of any tribunal of a foreign country having jurisdiction, according to the laws of such country, to pronounce the judgment, shall have the same effect as final judgments rendered in this state.

H. Petitioner, Buyers Real Party In Interest's Real Estate, Title

Insurance Companies in Texas and California, and Others, Relied Upon the Declarations of The Real Party In Interest, Invoking the Protection of Quasi Estoppel.

Petitioner is protected by the quasi estoppel doctrine in federal and state law, against the deception of a person who has declared herself for the past 21 years to be divorced from petitioner in real estate documents filed in the official records of the State of Texas; in representations made to persons buying her real properties; to Texas title insurance companies who insured title to properties on the basis of her divorced status; to California title insurance companies who relied upon her representations and failure to state a contrary claim during the 17 years after

the 1966 divorce judgment was rendered; and to petitioner, who relied upon her representations of being divorced, and did not protect his property interests.

California Evidence Code section 623 protects these persons from being defrauded by the actions of opposing legal counsel and the real party in interest's perjured and suborned declarations which have been eulogized by the California published decision, and the actions of the respondent court.

Section 623. Misleading Statement or Conduct.

> Whenever a party has, by his own statement or conduct, intentionally and deliberately led another to believe a particular thing true and to act upon such belief, he is not, in any litigation arising out of such statement or conduct, permitted to contradict it.

She signed numerous deeds to properties, and received title to

properties, as an unmarried woman. She represented herself to her children, in her beauty salon business, to be divorced from plaintiff. She represented herself to plaintiff as being divorced, and never raised any objections to the 1966 divorce judgment, whose benefits she accepted without question. Three years after her legal counsel filed the marriage terminating action in the respondent court, she continued to declare herself divorced from plaintiff in her resident State of Texas. In 1985 she filed declarations with the Social Security Administration of the United States government declaring that she was divorced from plaintiff, which she legally was, as she sought higher social security payments. (Exhibit "E")

Quasi estoppel is addressed in

California decisional law. In In re Shank's Estate (1957) 154 Cal.App.2d 888:

> [O]ur courts have recognized another species of estoppel, called 'quasi-estoppel,' which is based upon the principle that one cannot blow hot and cold ....

Petitioner has executed over 70 different property and loan transactions since the 1966 divorce judgment was rendered, title of which have been insured, and relied upon the previous divorce judgments, and the actions and inactions of the real party in interest. These rights must now be relitigated if the illegal and sham actions of the real party in interest and her legal counsel are to be continually protected by the respondent court as he seeks to protect himself against the earlier major violations of petitioner's civil and constitutional rights.

IV. THE PERSONAL JURISDICTION OF THE 1966 DIVORCE COURT IS BEYOND THE POWER OF THE RESPONDENT COURT TO RELITIGATE, TO DENY RECOGNITION, OR IMPOSE ILLEGAL AND UNCONSTITUTIONAL DOMICILE REQUIREMENTS.

Constitutional due process rights of residents of jurisdictions foreign to California, and the sovereignty of those courts, are beyond the power and the jurisdiction of the respondent court, to dictate to them an illegal and unconstitutional domicile requirement. The respondent court lacks the power and jurisdiction to force residents of foreign jurisdictions to prove their domicile intent before a foreign court that makes no such requirements. The respondent court is engaging in a

judicial arrogance and tyranny to void the personal liberties and property rights of such persons as they exercise their constitutional travel rights and unknowingly transition into the State of California, unaware of the massive violations of state, federal and constitutional law perpetrated selectively on citizens of the United States.

There is no authority in the Family Law Act, or any other statute, that permits the actions taken by the respondent court, as it the respondent court judge heaps violations upon violations, to protect its earlier major violations of civil and constitutional rights.

California Evidence Code 666 states:

> Section 666. Judicial Action Lawful Exercise of Jurisdiction.

> [A]ny court of this state ... or ... any other nation ... is presumed to have acted in the lawful exercise of its jurisdiction ... when the act ... is under collateral attack.

For arguendo, if the 1966 divorce court lacked personal jurisdiction, the judgment must be recognized under Civil Procedure section 1713.5:

> Section 1713.5. Personal Jurisdiction of Defendant--Bases.
>
> (a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if
>
> (2) The defendant voluntarily appeared in the proceedings ....
>
> (3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

California law and court practice does not require domicile as a basis for personal jurisdiction, and neither does the law and court practice of any known

jurisdiction within or outside of the United States. California law provides for other bases for jurisdiction than the domicile basis, which has been held to be illegal and unconstitutional.

California Code of Civil Procedure section 410.10, California Code of Civil Procedure section 1713.5 (b):

> The courts of this state may recognize other bases of jurisdiction.

California Code of Civil Procedure Section 1713.5 provides for additional protection against either collateral attacks upon the jurisdiction of the prior foreign judgment, or the retroactive substitution and forcing of new bases for personal jurisdiction by the respondent court, of domicile, upon other courts, and upon residents of such foreign courts:

> Section 1713.5. Personal Jurisdiction of Defendant--Bases.

(a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

(2) The defendant voluntarily appeared in the proceedings, ...

[which she did by signing notarized divorce documents, submitting them to her legal counsel, submitting to the personal jurisdiction of the 1966 divorce court, and her appearance by legal counsel, which also appeared in the judgment recitals.]

(3) The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

[which was implied by her actions in voluntarily signing the notarized divorce documents, not appealing, accepting the benefits of the divorce proceedings and divorce judgment, and not raising any objections for the next 17 years.]

(4)(b) The courts of this state may recognize other bases of jurisdiction.

V. CONSTITUTIONAL PROTECTIONS REQUIRES RECOGNITION OF THE PUBLIC ACTS OF SISTER

STATES, INCLUDING THE FULL FAITH AND CREDIT CLAUSE, THE RIGHT TO INTERSTATE TRAVEL, THE RIGHT TO OBTAIN A DIVORCE AND TO HAVE IT RECOGNIZED BY THE RESPONDENT COURT.

The registration of the 1966 divorce judgment in the States of Nevada, Colorado, Oklahoma, and Texas, invoked additional protections of the Full Faith and Credit Clause of the United States Constitution, under Article IV, Section 1.

> Article IV.
>
> Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.

> California Civil Code Section 5004. Full Faith and Credit Requirement.
>
> The application of this title ... requirement of the Constitution of the

United States that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

California Code of Civil Procedure

section 1913.

Conclusiveness and Effect of Judgment of Sister State:
The effect of a judicial record of a sister state is the same in this state as in the state where it was made, except that it can only be enforced here by an action or special proceeding ....

California Civil Code Section 4554

provides:

Section 4554. Effect of Final Judgment.

> Entry of the final judgment shall constitute a final adjudication of the rights and obligations of the parties with respect to the status of the marriage and property rights and shall constitute a waiver of their respective rights to spousal support, rights to appeal, and rights to move for a new trial.

California Code of Civil Procedure

section 1713.3 provides:

"A foreign judgment ... is conclusive between the parties ..."

Civil Code section 5164:

A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

Another of California's omnibus international comity judgment recognition statutes, California Code of Civil Procedure section 1908, provides:

The effect of a judgment or final order in an action or special proceeding before a court or judge of this state [is] ... conclusive between the parties.

The registration of the 1966 divorce judgment requiring recognition as a local judgment, provides additional protection to the finality of the original and subsequently registered and finalized judgments in California and other states. The Full Faith and Credit protection was invoked to provide additional protection

against collateral attacks and relitigation, based upon the following public acts of sister states (including the State of California):

aa. The registration and confirmation of the 1966 divorce judgment in the Superior Court, Contra Costa County, action number 251773. (Exhibit "D").

bb. The registration of the 1966 divorce judgment in the Superior Court, Solano County, State of California, action 91929, and which under law must be recognized as a local judgment. (Civil Code Sections 5162, 5164, 5172, California Code of Civil Procedure Sections 1653(j), 1697-1699, 1713.1, 1713.3, 1713.5.)

cc. The judicial entry as a Nevada judgment in the Second Judicial District of Nevada, County of Washoe, under case

number 85-5391 (Exhibit "E"), of the authenticated copy of the registered and confirmed judgment of the Superior Court, Contra Costa County, State of California. That original copy of the Nevada Judgment had been entered into the proceedings of the respondent court.

dd. The registration and entry into the Foreign Judgment Registry, Second Judicial District of Nevada, County of Washoe, Number 31, of the registered and confirmed judgment from the Superior Court, Contra Costa County, State of California.

ee. The registration of the 1966 divorce judgment in tne District Court of Oklahoma County, Oklahoma City, Oklahoma, as Case number FD-86-5870 (Exhibit "G");

ff. The registration of the 1966 divorce judgment in the Civil Courts of

Dallas County, Dallas, Texas, in Volume Two, Page 78, Foreign Judgment Register.

gg. The registration of the 1966 divorce judgment in the courts of Denver County, Denver, Colorado.

VI THE UNDERLYING ORDER FROM THE JUSTICES OF DIVISION FIVE ARE VOID ORDERS IN THAT THEY WERE RENDERED WITHOUT PERSONAL JURISDICTION OVER PETITIONER, AND VIOLATED MAJOR PROTECTIONS IN STATE, FEDERAL AND CONSTITUTIONAL LAW.

The California Court of Appeal rendered orders that petitioner pay sanctions and attorney fees, from which the bench warrant for petitioner's arrest was later issued. Petitioner was in a protected special appearance status during this petition and appeal, in that

the decision was not rendered until the following year, January 14, 1986, on the motion to quash. The orders of the three Justices deprived petitioner of ever appealing any violation of any magnitude to the California appellate courts. Rarely, if ever, will there be as many violations of substantive and procedural law perpetrated as have occurred in the instant action. Under constitutional due process, and as specifically provided by California law, petitioner exercised these remedies when confronted with violations that were far beyond the outer limits of judicial error or ignorance of the law. Petitioner properly exercised his due process remedies, for which the Justices inflicted severe financial sanctions and orders, in addition to lacking personal jurisdiction under the

protective provisions of California Civil Code Section 4356. By a deliberate, unconstitutional interpretation and interpretation of the frivolous sanction authority the justices held that petitioner, or any other divorced person, is guilty of frivolous actions, if he:

a. Files a motion to quash as specifically provided by California Rule of Court 1230(a)(2) and California Code of Civil Procedure Section 418.10(a)(1), based upon a prior judgment.

b. Files a petition for writ of prohibition as specifically provided by California Code of Civil Procedure Section 418.10(2)(c), when the respondent court refused to dismiss the action following a calendared hearing on the motion to quash and a decision refusing to dismiss.

c. Files an appeal, as provided by California Code of Civil Procedure Section 902 and 904.1, of illegal orders, rendered without personal or subject matter jurisdiction, while petitioner was in a protected special appearance status (under California Civil Code Section 4356 and California Rule of Court 1230 and 1232).

CONCLUSION

The bench warrant for petitioner's arrest was issued by a deliberate unconstitutional interpretation of state law; under orders originating with the Court of Appeal, who lacked personal jurisdiction over petitioner to punish him with sanctions for exercising his due process procedural remedies.

WHEREFORE, petitioner requests that this court order an immediate stay

of the bench warrant for petitioner's arrest, and calendar a hearing for a permanent injunction.

September 25, 1986.

RODNEY F. STICH
Petitioner in pro se

VERIFICATION

I, Rodney F. Stich, declare:

I am the petitioner in the foregoing Petition. The contents are true to the best of my knowledge. It is filed on the basis of major violations and unconstitutional interpretations of state, federal and constitutional law, actions without personal jurisdiction, without the statutory requirements for subject matter jurisdiction, and on the basis of bad faith misconduct by the respondent court.

Executed on September 25, 1986.

I declare under penalty of perjury that the foregoing is true and correct.

_____

RODNEY F. STICH

PROOF OF SERVICE BY MAIL

I declare that I am a resident of the County of Washoe, State of Nevada. I am over the age of eighteen years, and not a party to the action described herein. My address is _____

_____

_____

On September 26, 1986, I served the attached Petition for Hearing on the below parties in the above action, by placing a true copy in a sealed envelope with sufficient postage prepaid, in the United States mail at Reno, Nevada, addressed as follows:

Clerk, Superior Court, County of Solano, Hall of Justice Building, Fairfield, California 94533

Friedman, Sloan and Ross, Suite 400, 407 Sansome Street, San Francisco, California 94111.

Clerk, California Court of Appeal 350 McAllister Street, San Francisco, Calif. 94101

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on September 26, 1986.

X_____
Printed Name

x_____
Signature

ORDER DENYING REVIEW

AFTER JUDGMENT BY THE COURT OF APPEAL

1st District, No. A036318

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

MARRIAGE OF STICH

STICH, Petitioner,
v.
SUPERIOR COURT OF THE COUNTY OF SOLANO, Respondent;
STICH, Real Party in Interest.

Application for stay DENIED.

Petition for review DENIED.

Bird

Chief Justice

APPENDIX "C")

ORDER DENYING REVIEW

AFTER JUDGMENT BY THE COURT OF APPEAL

1st District, No. A036318

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

MARRIAGE OF STICH

STICH, Petitioner,
v.
SUPERIOR COURT OF THE COUNTY OF SOLANO, Respondent;
STICH, Real Party in Interest.

Application for stay DENIED.

Petition for review DENIED.

Bird

Chief Justice

Appendix "C"

IN THE SUPREME COURT OF CALIFORNIA

In re the Marriage of Stich	Court of Appeal A036318
RODNEY F. STICH, v.	Superior Court No. 83472 Solano County
SUPERIOR COURT OF THE STATE OF CALIFORNIA, for the County of Solano, Respondent,	**FILED** Oct. 23, 1986 Court of Appeal First District
EMMA W. STICH, Real Party in Interest.	

TO THE CLERK OF THE ABOVE-ENTITLED COURT

NOTICE IS HEREBY GIVEN THAT PETITIONER RODNEY F. STICH appeals to the United States Supreme Court from the In Bank decision of the California Supreme Court, Appeal Nr. A036318, filed October 15, 1986, denying petitioner's application for stay, and denying petition for review, of the bench warrant for petitioner's arrest.

DATED: October 19, 1986.

RODNEY F. STICH
Appellant/petitioner in pro se

(APPENDIX "D")